

ADAMS, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JASON WESTERFIELD)	CASE NO. 1:10CV01589
Petitioner,)	1:05CR537-02
)	
v.)	JUDGE JOHN R. ADAM
)	
UNITED STATES OF AMERICA)	ORDER
Respondent.)	

This action is before the Court upon Westerfield's motion to vacate his conviction and sentence pursuant to 28 U.S.C. 2255 filed in Case No. 1:05CR0537-02 and the related civil case.

The Court has reviewed the motion as well as the Government's Response (Doc. 981 in Case No. 1:05CR0537), in which the Government acknowledges that Detective Charles Metcalf, a material witness in the prosecution of Westfield, lied during his testimony. The Government concedes that:

The government has examined the state of the evidence for purposes of a retrial in this case and believes that it cannot prevail under the proof beyond a reasonable doubt standard. In considering all of the available evidence and witnesses, and because the government respectfully declines to call a convicted perjurer to the stand to testify at a retrial, the government asks this Court to dismiss this case, No. 1:05CR537.

The Court agrees. Therefore, the conviction and sentence of defendant JASON WESTERFIELD in Case No. 1:05CR0537 is VACATED.

Case No. 1:10CV01589 is CLOSED.

In addition, as quoted above, the Government seeks dismissal of the charges against Westerfield in 1:05CR537. For good cause shown and in the interest of justice, the government's request for leave to dismiss is GRANTED as

to defendant JASON WESTERFIELD. All charges pending in Case No. 1:05CR0537 against this defendant only are DISMISSED.

IT IS SO ORDERED.

January 4, 2011
Date

/s/ John R. Adams
John R. Adams
U.S. District Judge